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**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:08-cv-03313-ARR-LB**

Kaminsky v. National Aeronautics and Space Administration
Assigned to: Senior Judge Allyne R. Ross
Referred to: Magistrate Judge Lois Bloom
Cause: 05:552 Freedom of Information Act

Date Filed: 08/22/2008
Date Terminated: 01/19/2010
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff

Barry Kaminsky

represented by **Barry Kaminsky**
2652 Cropsey Avenue
Apt. 12-F
Brooklyn, NY 11214
718-372-6786
Email: barry@polisource.com
PRO SE

V.

Defendant

**National Aeronautics and Space
Administration**

represented by **David Michael Eskew**
United States Attorney's Office
Eastern District Of New York
Civil Division
271 Cadman Plaza East
Brooklyn, NY 11201
718-254-6194
Fax: 718-254-7489
Email: david.eskew@usdoj.gov
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|-------------------|--------------------------|---|
| 08/11/2008 | <u>1</u> | COMPLAINT against National Aeronautics and Space Administration, filed by Barry Kaminsky. (Attachments: # <u>1</u> Civil Cover Sheet) (Jones, Sandra) (Entered: 08/18/2008) |
| 08/11/2008 | <u>2</u> | MOTION for Leave to Proceed in forma pauperis by Barry Kaminsky. (Jones, Sandra) (Entered: 08/18/2008) |
| 08/11/2008 | <u>3</u> | Notice of Related Case Assignment/Designation (Jones, Sandra) (Entered: 08/18/2008) |
| 08/22/2008 | <u>4</u> | ORDER: Plaintiff's <u>2</u> application to proceed <i>in forma pauperis</i> under 28 U.S.C. § 1915 is hereby granted. The United States Marshals Service is directed to serve the summons and complaint upon the defendant without prepayment of fees. The parties shall advise the Court by signing the enclosed form whether they jointly consent to trial and decision on this case by me, a United States Magistrate Judge, pursuant to 28 U.S.C. § 636(c). So Ordered. (Ordered by Magistrate Judge Lois Bloom, on 8/21/2008) C/mailed w/Attachments: # <u>1</u> Consent to Magistrate Judge Trial, # <u>2</u> Individual Practices of Magistrate Judge Lois Bloom. <i>Inter-Off. Svc. upon the U.S.M.S. (Latka-Mucha, Wieslawa)</i> (Entered: 08/22/2008) |
| 08/22/2008 | <u>5</u> | Summons Issued as to National Aeronautics and Space Administration. (Courtesy Copy sent to U.S. Attorney General; U.S. Attorney for the Eastern District of New York; and the Agency) (Latka-Mucha, Wieslawa) (Entered: 08/22/2008) |
| 10/10/2008 | <u>6</u> | SUMMONS Returned Executed by Barry Kaminsky. National Aeronautics and Space Administration served on 9/15/2008, answer due 11/14/2008. US ATTY EDNY served on 9/2/08 and US Atty General served on 9/3/08. (Galeano, Sonia) (Entered: 10/10/2008) |
| 10/17/2008 | <u>7</u> | First MOTION for Extension of Time to File Answer <i>to December 1, 2008</i> by National Aeronautics and Space Administration. (Eskew, David) (Entered: 10/17/2008) |
| 10/22/2008 | <u>8</u> | ORDER endorsed on doc.# <u>7</u> : Plaintiff is correct that due to clerical error, the summons was marked 60 days, but should have only afforded 30 days by statute. Therefore, the extension the government requests is too long. Defendant shall respond to the complaint by November 21, 2008. So Ordered. (Ordered by Magistrate Judge Lois Bloom, on 10/22/2008) C/mailed. (Latka-Mucha, Wieslawa) (Entered: 10/23/2008) |

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| 11/21/2008 | <u>9</u> | ANSWER to <u>1</u> Complaint by National Aeronautics and Space Administration. (Eskew, David) (Entered: 11/21/2008) |
| 11/24/2008 | <u>1</u> <u>0</u> | ORDER: The Court shall hold an initial pre-trial conference pursuant to Fed. R. Civ. P. 16 on December 22, 2008 at 2:00 p.m., in Room 373N on the 3rd floor of the United States Courthouse. No planning conference pursuant to Rule 26(f), Fed. R. Civ. P., shall be required at this time. Parties are advised that they must contact each other before making any request for an adjournment to the Court. So Ordered. (Ordered by Magistrate Judge Lois Bloom, on 11/24/2008) C/mailed. (Latka-Mucha, Wieslawa) (Entered: 11/26/2008) |
| 11/25/2008 | <u>1</u> <u>1</u> | ANSWER to Motion to Dismiss/ <u>9</u> Answer to Complaint by Barry Kaminsky. (Attachments: # <u>1</u> Letter of Enclosure) (Barrett, C) (Entered: 11/26/2008) |
| 12/22/2008 | <u>1</u> <u>2</u> | Minute Entry: for proceedings held before Magistrate Judge Lois Bloom:Initial/Settlement Conference held on 12/22/2008. Tick #(s) 2:34-3:22. (Galeano, Sonia) (Entered: 12/23/2008) |
| 12/23/2008 | | ENDORSED ORDER ON DOC. #12, the Court held an initial conference today and discussed the parties' positions. The Court shall hold a status conference on 1/26/09 at 2:30 p.m., in Courtroom #373N. (Ordered by Magistrate Judge Lois Bloom on 12/22/08) c/m (Galeano, Sonia) (Entered: 12/23/2008) |
| 01/26/2009 | <u>1</u> <u>3</u> | Minute Entry: for proceedings held before Magistrate Judge Lois Bloom:Settlement Conference held on 1/26/2009. Tick #(s) 2:55-3:01. (Galeano, Sonia) (Entered: 02/03/2009) |
| 02/03/2009 | | ENDORSED ORDER ON DOC. #13, the Court shall hold a status conference on 2/23/09 in Courtroom #373N at 2:00 p.m. unless a stipulation discontinuing this action is received prior to that date. (Ordered by Magistrate Judge Lois Bloom on 1/26/09) c/m (Galeano, Sonia) (Entered: 02/03/2009) |
| 02/17/2009 | <u>1</u> <u>4</u> | Letter dated 2/17/09 from pro se Barry Kaminsky to Judge Bloom, requesting that the 2/23/09 conference be a settlement conference rather than a status conference, etc. (Latka-Mucha, Wieslawa) (Entered: 02/18/2009) |
| 02/17/2009 | <u>1</u> <u>5</u> | NOTICE of Plaintiff's E-mail address; filed by Barry Kaminsky, dated 2/17/09. W/Attachments: # <u>1</u> Affirmation of Service. (<i>Docket sheet updated</i>) (Latka-Mucha, Wieslawa) (Entered: 02/18/2009) |
| 02/23/2009 | <u>1</u> <u>6</u> | Minute Entry for proceedings held before Magistrate Judge Lois Bloom: Initial / Settlement Conference held on 2/23/2009. Recorded. Tick #(s) 2:11 - 2:25. Appearances for Plaintiff: pro se Barry Kaminsky; for Defendant: AUSA David Michael Eskew. (Latka-Mucha, Wieslawa) (Entered: 02/25/2009) |

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| 02/24/2009 | <u>1</u> <u>7</u> | ORDER: Plaintiff has received the documents in response to his FOIA request, but plaintiff will not discontinue the case as the parties have not agreed on the amount of costs due. Plaintiff requested permission to file a motion for the award of costs in this case, and the Court set the following schedule. Plaintiff shall file his motion by 3/9/2009, and defendant shall oppose the motion by 3/24/2009. SO ORDERED. (Ordered by Magistrate Judge Lois Bloom, on 2/24/2009) C/mailed. (Latka-Mucha, Wieslawa) (Entered: 02/25/2009) |
| 03/02/2009 | <u>1</u> <u>8</u> | TRANSCRIPT of Civil Cause for Conference held on 2/23/2009, before Judge Bloom. Court Transcriber Rosalie Lombardi, Telephone number 516-358-7352. Transcript may be viewed at the court public terminal or purchased through the Court Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/23/2009. Redacted Transcript Deadline set for 4/2/2009. Release of Transcript Restriction set for 6/1/2009. (Toribio, Winnethka) (Entered: 03/02/2009) |
| 03/10/2009 | <u>1</u> <u>9</u> | Notice of MOTION for Litigation Costs; filed by Barry Kaminsky, dated 3/10/2009. W/Attachments: # <u>1</u> Affidavit in Support of Motion for Litigation Costs; # <u>2</u> Affirmation of Service. (Latka-Mucha, Wieslawa) (Entered: 03/13/2009) |
| 03/23/2009 | <u>2</u> <u>0</u> | RESPONSE in Opposition re <u>19</u> Notice of MOTION for More Definite Statement <i>Defendant's Opposition to Plaintiff's Motion for Litigation Costs</i> filed by National Aeronautics and Space Administration. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B) (Eskew, David) (Entered: 03/23/2009) |
| 06/05/2009 | <u>2</u> <u>1</u> | ORDER: Plaintiff now moves for an award of \$454 in litigation costs, <u>see</u> document <u>19</u> , and defendant opposes the motion. Plaintiff has failed to demonstrate, or even identify, any benefit to the public in this case. Likewise, plaintiff fails to establish the other factors which would militate the award of costs. Therefore, plaintiff's <u>19</u> motion for costs in this action is denied. Plaintiff may sign a settlement agreement discontinuing the action by 6/19/2009, or defendant may write the Court requesting permission to file a dispositive motion. SO ORDERED. (Ordered by Magistrate Judge Lois Bloom, on 6/5/2009) C/mailed. (Latka-Mucha, Wieslawa) (Entered: 06/09/2009) |
| 06/19/2009 | <u>2</u> <u>2</u> | MOTION to Dismiss Case as Frivolous , <i>or in the Alternative, Requesting Approval of a Briefing Schedule With Respect to Defendant's Motion for Summary Judgment</i> by National Aeronautics and Space Administration. (Eskew, David) (Entered: 06/19/2009) |
| 06/22/2009 | <u>2</u> <u>3</u> | ORDER endorsed on doc.# <u>22</u> : Application for <u>sua sponte</u> dismissal is - denied. The motion shall be briefed in accordance with the requested schedule. So Ordered. (Ordered by Judge Allyne R. Ross, on 6/22/2009) C/mailed by Chambers. (Latka-Mucha, Wieslawa) (Entered: 06/23/2009) |
| 07/21/2009 | <u>2</u> <u>4</u> | Notice of MOTION for Summary Judgment by National Aeronautics and Space Administration. Responses due by 8/21/2009 (Eskew, David) (Entered: 07/21/2009) |

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| 07/21/2009 | <u>2</u> <u>5</u> | NOTICE by National Aeronautics and Space Administration re <u>24</u> Notice of MOTION for Summary Judgment <i>Defendants Local Civil Rule 56.2 Notice to Pro Se Litigant Opposing Motion for Summary Judgment</i> (Eskew, David) (Entered: 07/21/2009) |
| 07/21/2009 | <u>2</u> <u>6</u> | RULE 56.1 STATEMENT re <u>24</u> Notice of MOTION for Summary Judgment <i>Defendants Local Civil Rule 56.1 Statement of Undisputed Facts</i> filed by National Aeronautics and Space Administration. (Eskew, David) (Entered: 07/21/2009) |
| 07/21/2009 | <u>2</u> <u>7</u> | MEMORANDUM in Support re <u>24</u> Notice of MOTION for Summary Judgment <i>Memorandum of Law in Support of Defendants Motion for Summary Judgment</i> filed by National Aeronautics and Space Administration. (Eskew, David) (Entered: 07/21/2009) |
| 07/21/2009 | <u>2</u> <u>8</u> | AFFIDAVIT/DECLARATION in Support re <u>24</u> Notice of MOTION for Summary Judgment <i>Declaration of Stella Luna in Support of Defendants Motion for Summary Judgment, and all Exhibits annexed thereto</i> filed by National Aeronautics and Space Administration. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E) (Eskew, David) (Entered: 07/21/2009) |
| 07/21/2009 | <u>2</u> <u>9</u> | AFFIDAVIT/DECLARATION in Support re <u>24</u> Notice of MOTION for Summary Judgment <i>Declaration of Victor Thompson in Support of Defendants Motion for Summary Judgment, and all Exhibits annexed thereto</i> filed by National Aeronautics and Space Administration. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B) (Eskew, David) (Entered: 07/21/2009) |
| 07/21/2009 | <u>3</u> <u>0</u> | AFFIDAVIT/DECLARATION in Support re <u>24</u> Notice of MOTION for Summary Judgment <i>Declaration of Assistant United States Attorney David M. Eskew, and all Exhibits annexed thereto</i> filed by National Aeronautics and Space Administration. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B) (Eskew, David) (Entered: 07/21/2009) |
| 07/21/2009 | <u>3</u> <u>1</u> | Letter <i>Cover Letter to Plaintiff Accompanying Service of Defendant's Motion for Summary Judgment</i> by National Aeronautics and Space Administration (Eskew, David) (Entered: 07/21/2009) |
| 07/21/2009 | <u>3</u> <u>2</u> | AFFIDAVIT of Service for Motion for Summary Judgment served on Plaintiff on July 21, 2009, filed by National Aeronautics and Space Administration. (Eskew, David) (Entered: 07/21/2009) |
| 08/21/2009 | <u>3</u> <u>3</u> | Notice Of MOTION For More Definite Statement <i>Or In The Alternative Discovery; filed</i> by Barry Kaminsky, dated 8/21/2009. W/Attachments: # <u>1</u> Affirmation of Barry Kaminsky in Support of Plaintiff's Motion, # <u>2</u> Memorandum of Law in Support of Plaintiff's Motion, # <u>3</u> Affirmation of Service. (Latka-Mucha, Wieslawa) (Entered: 08/24/2009) |

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| 09/04/2009 | 3 4 | Notice of MOTION for Summary Judgment by National Aeronautics and Space Administration. (Eskew, David) (Entered: 09/04/2009) |
| 09/04/2009 | 3 5 | NOTICE by National Aeronautics and Space Administration re 34 Notice of MOTION for Summary Judgment <i>Defendant's Local Civil Rule 56.2 Notice to Pro Se Litigant Opposing Motion for Summary Judgment</i> (Eskew, David) (Entered: 09/04/2009) |
| 09/04/2009 | 3 6 | REPLY in Opposition re 33 Notice of MOTION for More Definite Statement, REPLY in Support re 24 Notice of MOTION for Summary Judgment <i>Defendant's Reply Memorandum of Law in Opposition to Plaintiff's Motion for a More Definite Statement and in Further Support of Defendant's Motion for Summary Judgment</i> filed by National Aeronautics and Space Administration. (Eskew, David) (Entered: 09/04/2009) |
| 09/04/2009 | 3 7 | AFFIDAVIT of Service for Reply Brief served on Plaintiff on September 4, 2009, filed by National Aeronautics and Space Administration. (Eskew, David) (Entered: 09/04/2009) |
| 09/04/2009 | 3 8 | Letter to the Honorable Allyne R. Ross accompanying courtesy copies of fully briefed motion for summary judgment by National Aeronautics and Space Administration (Eskew, David) (Entered: 09/04/2009) |
| 09/04/2009 | | DUPLICATE MOTION terminated: Per David Eskew, Esq. the 34 Notice of MOTION for Summary Judgment filed by National Aeronautics and Space Administration was previously filed as document 24 . A decision will be rendered on the 24 motion. (Barrett, C) (Entered: 09/08/2009) |
| 09/04/2009 | | DUPLICATE DOCKET INFORMATION: Documents 34 and 35 are duplicates of documents 24 , 25 , respectively. (The 34 motion has been terminated, as it was filed in error.) (Barrett, C) (Entered: 09/08/2009) |
| 09/16/2009 | 3 9 | ORDER: Plaintiff's 33 motion for a more definite statement or in the alternative for discovery is denied. In light of plaintiff's <i>pro se</i> status, the Court grants plaintiff until 9/30/2009 to file any opposition to defendant's motion for summary judgment. If plaintiff fails to oppose the motion by this date, the Court shall consider defendant's motion for summary judgment unopposed. SO ORDERED. (Ordered by Magistrate Judge Lois Bloom, on 9/16/2009) <i>C/mailed</i> . (Latka-Mucha, Wieslawa) (Entered: 09/17/2009) |
| 09/30/2009 | 4 0 | REPLY / Plaintiff's Opposition To Defendant's Motion For Summary Judgment; filed by Barry Kaminsky, dated 9/30/2009. W/Attachments. (Latka-Mucha, Wieslawa) (Entered: 10/01/2009) |

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| 01/19/2010 | 4 1 | OPINION AND ORDER: Defendant's 24 Motion for Summary Judgment is granted. Plaintiff's complaint is dismissed in its entirety. The Clerk of the Court is directed to enter judgment accordingly. SO ORDERED. (Ordered by Judge Allyne R. Ross, on 1/14/2010) <i>C/mailed by Chambers. (Forwarded for Judgment)</i> (Latka-Mucha, Wieslawa) (Entered: 01/19/2010) |
| 01/19/2010 | 4 2 | JUDGMENT: ORDERED and ADJUDGED that plaintiff take nothing of the defendant; that defendant's motion for summary judgment is granted; and that plaintiff's complaint is dismissed in its entirety. (Ordered by Robert C. Heinemann, Clerk of Court on 1/19/2010) <i>C/mailed w/appeals packet.</i> (Latka-Mucha, Wieslawa) (Entered: 01/19/2010) |
| 03/19/2010 | 4 3 | NOTICE OF APPEAL as to 41 Order on Motion for Summary Judgment, 42 Clerk's Judgment, by Barry Kaminsky. NO FEE PAID. NOA served ECF (Gonzalez, Mary) (Entered: 03/19/2010) |
| 03/19/2010 | | Electronic Index to Record on Appeal sent to US Court of Appeals. For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. 29 Affidavit in Support of Motion, 38 Letter, 15 NOTICE of Change of Address/Firm/Email, 41 Order on Motion for Summary Judgment, 31 Letter, 1 Complaint, 22 Motion to Dismiss Case as Frivolous, 40 Reply in Opposition, 42 Clerk's Judgment, 39 Order on Motion for More Definite Statement,, 30 Affidavit in Support of Motion, 8 Order on Motion for Extension of Time to Answer, 2 Motion for Leave to Proceed in forma pauperis, 23 Order on Motion to Dismiss Case as Frivolous, 43 Notice of Appeal, Incorrect Case/Document/Entry Information., 28 Affidavit in Support of Motion, 24 Motion for Summary Judgment, 27 Memorandum in Support, 19 Motion for More Definite Statement, 36 Reply in Opposition, Reply in Support,, 4 Order on Motion for Leave to Proceed in forma pauperis,, 9 Answer to Complaint, 5 Summons Issued as to USA, Terminate Motions, 33 Motion for More Definite Statement, 17 Order,, 25 Notice(Other), 7 Motion for Extension of Time to File Answer, 10 Scheduling Order, 35 Notice(Other), 20 Response in Opposition to Motion, 16 Initial Conference Hearing, Settlement Conference,, 32 Affidavit of Service, 34 Motion for Summary Judgment, 21 Order on Motion for More Definite Statement,, 18 Transcript,, 3 Notice of Related Case, 37 Affidavit of Service, 6 Summons Returned Executed as to USA (Gonzalez, Mary) (Entered: 03/19/2010) |
| 03/16/2011 | 4 4 | MANDATE of USCA as to 43 Notice of Appeal filed by Barry Kaminsky. It is Ordered that the judgment of the District Court is affirmed. See document for further details. Issued as Mandate: 3/16/11. (McGee, Mary Ann) (Entered: 03/16/2011) |

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